

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SAMUEL GARCIA,
Petitioner,

v.

BERNADETTE MASON, et al.,
Respondents.

CIVIL ACTION

NO. 23-3913

ORDER

AND NOW, this 21st day of November, 2024, upon consideration of the Petition for Writ of Habeas Corpus (ECF No. 2), the Commonwealth's Response (ECF No. 14), Petitioner's Traverse (ECF No. 15), the Report and Recommendation of United States Magistrate Judge Carol Sandra Moore Wells (ECF No. 16), and Petitioner's objections to the Report and Recommendation (ECF No. 18), is hereby **ORDERED** that:

1. The Court's November 13, 2024 Order (ECF No. 17) is **VACATED**.¹
2. The Petitioner's objections to the Report and Recommendation (ECF No. 18) are **OVERRULED**.²
3. The Report and Recommendation is **APPROVED AND ADOPTED**;
4. The Petition for a Writ of Habeas Corpus is **DISMISSED**, without an evidentiary hearing; and

¹ The Court filed its Order adopting Judge Wells' R&R at the conclusion of the 14-day period in which Petitioner could file his objections. However, Petitioner's objections, which were sent by mail, did not reach the Court until November 15, 2024. Petitioner mailed his objections on November 6, 2024, thus, the objections were timely filed. The Court now vacates the original order and issues the present Order having considered Petitioner's objections.

² Petitioner's Objections to Judge Wells' Report and Recommendation largely restate the issues which Petitioner presented in his habeas petition and traverse. As Judge Wells' Report and Recommendation correctly and comprehensively addressed the issues of whether equitable tolling is applicable and whether an evidentiary hearing is necessary, I conclude that Petitioner's objections are overruled.

5. Petitioner has neither shown denial of a federal constitutional right, nor established that reasonable jurists would disagree with this court's procedural disposition of his claims.

Consequently, a certificate of appealability is **DENIED**.

IT IS SO ORDERED.

BY THE COURT:

/s/ Hon. Kelley B. Hodge

HODGE, KELLEY B., J.